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GOVERNMENT OF KERALA

LAW DEPARTMENT

NOTIFICATION

No. 6105-b2|63|Law. *Dated, Trivandrum, 6th June 1963.*

The following Act of Parliament, published in the Gazette of India, Extraordinary, Part II, Section 1, dated the 23rd May, 1963, is hereby republished for general information. The Bill as passed by the Houses of Parliament received the assent of the President on the 22nd May, 1963.

By order of the Governor,

P. UNNIKRISHNA KURUP,
Additional Law Secretary.

THE COMPULSORY DEPOSIT SCHEME ACT, 1963
(Act 21 of 1963)

An

ACT

to provide in the interest of national economic development for compulsory deposit and for the framing of a scheme in relation thereto.

BE it enacted by Parliament in the Fourteenth Year of the Republic of India as follows:—

1. *Short title, extent and commencement.*—(1) This Act may be called the Compulsory Deposit Scheme Act, 1963.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. *Persons to whom Act applies.*—This Act shall apply to the following categories of persons, namely:—

(a) persons liable to payment of land-revenue (whether known as land-revenue, rent, tax or by any other name) under any law with respect to land-revenue whether or not such persons are liable to pay tax under the Income-tax Act;

(b) persons liable to payment of tax under the Income-tax Act;

(c) holders of immovable properties situated in urban areas assessed to tax (whether known as property tax, house tax or by any other name) who are not liable to payment of tax under the Income-tax Act;

(d) employees of—

(i) the Central and State Governments,

(ii) local authorities,

(iii) companies as defined in section 3 of the Companies Act, 1956 (1 of 1956), including foreign companies within the meaning of section 591 and Government companies as defined in section 617 of that Act,

(iv) any other corporation (including a co-operative society) established by or under a Central, Provincial or State Act,

(v) individuals or associations of persons or bodies of individuals liable to payment of tax under the Income-tax Act, and entitled to deduct the salary paid to their employees for the purpose of computing their income under that Act,

whose annual income from salary is one thousand five hundred rupees or more and who are not liable to payment of tax under the Income-tax Act;

(e) dealers whose annual turnover, determined in accordance with the provisions of any State Act with respect to tax on the sale of goods, is fifteen thousand rupees or more and who are not liable to payment of tax under the Income-tax Act:

Provided that where by or under any such State Act any amount higher than fifteen thousand rupees has been fixed as the minimum annual turnover for the purpose of registration under that Act the reference to fifteen thousand rupees in this clause shall be construed as a reference to that amount.

Explanation.—In this clause,—

(a) "dealer" has the same meaning as in the respective State Acts with respect to tax on the sale of goods;

(b) "State Act" includes a Provincial Act;

(f) such other categories of persons [than those referred to in clause (a) to (e)] whose annual income is one thousand five

hundred rupees or more and who are not liable to payment of tax under the Income-tax Act, as may be specified by the Central Government by notification in the Official Gazette.

3. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) "additional surcharge" means additional surcharge for the purposes of the Union referred to in the annual Finance Act;

(b) "deposit" means a deposit of money;

(c) Income-tax Act" means the Income-tax Act, 1961 (43 of 1961);

(d) "person" shall have the same meaning as in clause (31) of section 2 of the Income-tax Act;

(e) "salary" has the same meaning as in section 17 of the Income-tax Act, but in relation to a person falling under clause (d) of section 2 does not include any gratuity or annuity or pension;

(f) "urban area" means any area within the local limits of a municipality (by whatever name called), a notified area committee, a town area committee, a city and town committee, a small town committee, a Cantonment Board or a Panchayat constituted by reorganisation of any of the aforesaid local authorities and having a population of ten thousand or more;

(g) "year" means the financial year.

4. *Requirement as to compulsory deposit.*—(1) As from such date as the Central Government may, by notification in the Official Gazette, appoint in this behalf, every person to whom this Act applies, other than a person falling under clause (b) of section 2, shall make a compulsory deposit at such rate as may be provided for in a scheme framed under this Act:

Provided that different notifications may be issued under this sub-section on different dates in relation to different categories of persons:

Provided further that the rate of compulsory deposit shall not exceed the maximum rate specified in sub-section (2).

(2) The maximum rate of deposit shall be—

(a) in the case of a person falling under clause (a) of section 2, fifty per cent of the land-revenue (including surcharge thereon, if any,) payable in respect of the land or lands held by him in the year for which the deposit is required to be made.

Explanation.—In this clause "year" means the year with reference to which land-revenue is payable under any law with respect to land-revenue;

(b) in the case of a person falling under clause (c) of that section, three per cent of the annual rental value of the property with reference to which the property is assessed to the tax referred to in that clause in the year in which the deposit is required to be made;

Provided that where the property is assessed to such tax not with reference to its annual rental value, the maximum rate of deposit under this clause shall be twelve and a half per cent of such tax;

(c) in the case of a person falling under clause (d) of that section, three per cent of his annual income from salary;

(d) in the case of a person falling under clause (e) of that section, one-third of one per cent of this turnover during the year immediately preceding the year in which the deposit is required to be made;

(e) in the case of a person falling under clause (f) of that section, a sum of sixty rupees per annum.

(3) A person falling under clause (b) of section 2 by whom any additional surcharge is payable in respect of any assessment year may make a deposit under this Act in respect of that year and if he does so, then, he shall, on production of proof before the Income-tax officer concerned of the fact of such deposit having been made, be entitled to deduction from the additional surcharge of a sum which shall be equal to—

(a) the sum so deposited, or

(b) (i) where his residual income is six thousand rupees or less, three per cent of such residual income, or

(ii) where his residual income exceeds six thousand rupees, three per cent of the first six thousand rupees of such residual income and two per cent of the balance thereof,

whichever is less.

Explanation.—In this sub-section "residual income" has the same meaning as in section 2 of the Finance Act, 1963 (13 of 1963).

(4) Any person falling under clause (b) of section 2 who is in receipt of any income under the head "Salaries" during any financial year may make a deposit under this Act in that year and if he does so, then, notwithstanding anything in the Income-tax Act, the person responsible for paying that income shall, on production of proof of the fact of such deposit having been made, reduce the amount of additional surcharge included in the tax to be deducted in accordance with the provisions of section 192 of that Act by a sum which shall be equal to—

(a) the sum so deposited, or

(b) the sum calculated in accordance with clause (b) of sub-section (3),

whichever is less.

(5) Any person falling under clause (b) of section 2 who is liable to pay advance tax under the Income-tax Act in any financial year may make a deposit under this Act in that year and if he does so, then, notwithstanding anything contained in the Income-tax Act, he shall, on production of proof before the Income-tax officer concerned of the fact

of such deposit having been made, be entitled to deduction from the additional surcharge included in the advance tax, of a sum which shall be equal to—

(a) the sum so deposited, or

(b) the sum calculated in accordance with clause (b) of sub-section (3),

whichever is less.

Explanation.—In this sub-section, "advance tax" shall have the same meaning as in section 207 of the Income-tax Act.

(6) Where a person falling under clause (d) of section 2 pays in any year any sum,—

(i) to effect or to keep in force any insurance on the life of such person or on the life of the wife or husband of such person; or

(ii) as a contribution to any provident fund to which the Provident Funds Act, 1925 (19 of 1925), applies or to any "recognised provident fund" as defined in clause (38) of section 2 of the Income-tax Act; or

(iii) in a ten-year account or a fifteen-year account under the Post Office Savings Bank (Cumulative Time Deposit) Rules, 1959, as amended from time to time,

he shall not be liable to make any compulsory deposit under this section for that year if such sum is not less than eleven per cent. of his annual income from salary.

(7) Where any person falls under any two or more categories referred to in section 2 other than the category referred to in clause (b) of that section, then, he shall make a compulsory deposit at the rate applicable to each of those categories.

(8) Any deposit made under this section shall bear simple interest at the rate of four per cent. per annum to be calculated from the first day of the month immediately following the month in which the deposit is made to the last day of the month immediately preceding the month in which it is repaid (both days inclusive) and notwithstanding anything in the Income-tax Act, the amount of such interest shall be free of any tax under that Act.

(9) Any deposit made under this section during any year shall be repayable with interest thereon at any time after the expiry of five years from the end of the year in which the deposit has been made:

Provided that nothing in this sub-section shall prevent earlier repayment of any deposit with interest thereon in any case in which the authority empowered to make such repayment is satisfied that genuine hardship will be caused unless such repayment is made.

(10) If any doubt or dispute arises as to the amount to be deposited by any person under this Act or as to the date on which such amount is to be deposited or as to any other matter in relation to any deposit to be made under this Act, the decision thereon of the Government or any authority empowered by the Government in this behalf shall be final.

5. *Compulsory Deposit Scheme.*—(1) The Central Government shall, by notification in the Official Gazette, frame one or more scheme or schemes to be called Compulsory Deposit Scheme or Schemes in relation to deposits under this Act.

(2) A scheme framed under sub-section (1) may provide for,—

(a) the rates at which and the period for which compulsory deposits shall be made by the several categories of persons to whom this Act applies and the extension of such period;

(b) the manner (including the deduction of deposits at source) in which and the intervals at which such deposits shall be made;

(c) the documents to be issued to persons by whom deposits have been made as evidence of such deposits;

(d) the authority or authorities by or through whom deposits may be collected or by whom penalties for failure to make deposits may be levied;

(e) the accounts to be maintained with respect to such deposits and the officers by whom such accounts shall be maintained;

(f) the nomination of any person to receive the amount standing to the credit of a depositor in the event of his death and the cancellation or charge of such nomination;

(g) the issue of duplicate of any document issued as evidence of any deposit in the event of loss or destruction of the original and the fee on the payment of which such duplicate may be issued;

(h) the exemptions, if any, to be granted in exercise of the powers under section 9;

(i) the delegation of powers in pursuance of section 10;

(j) the repayment and withdrawal of deposits with interest thereon and the conditions, if any, under which such repayment or withdrawal may be made;

(k) any other matter which may be necessary or proper for the effective implementation of the Scheme.

(3) A scheme framed under this section may provide that all or any of its provisions shall take effect either prospectively or retrospectively on such date as may be specified in this behalf in the Scheme.

(4) Any scheme framed under this section shall have effect notwithstanding anything contained in any law for the time being in force, other than this Act, or in any instrument having effect by virtue of any law other than this Act.

6. *Modification of Scheme.*—The Central Government may, by notification in the Official Gazette, add to, amend or vary any scheme framed under this Act.

7. *Rounding off.*—Where the amount of any deposit to be made under this Act contains a part of a rupee, then, if such part is fifty naye paise or more, it shall be increased to one complete rupee and if such part is less than fifty naye paise, it shall be ignored.

8. *Power to suspend, reduce or remit the amount of compulsory deposit.*—Where the State Government has suspended payment of land-revenue, or reduced or remitted the amount of land-revenue, payable in any year in respect of any land, then, the Central Government may, by order, suspend payment of the compulsory deposit, or reduce or remit the amount of such deposit payable in that year under section 4 by a person falling under clause (a) of section 2.

9. *Power to exempt.*—Where the Central Government is of the opinion that it is necessary or expedient so to do, either in the public interest or having regard to the peculiar circumstances of any case, it may, by notification in the Official Gazette and subject to such conditions, if any, as it may specify in the notification,—

(a) exempt any person or class of persons from the operation of all or any of the provisions of this Act; and

(b) cancel any such notification and again subject, by a like notification, the person or class of persons to the operation of such provisions.

10. *Power to delegate.*—The Central Government may, by notification in the Official Gazette, direct that any power which may be exercised by it under this Act, other than the power under section 5 or the power under this section, shall, subject to such restrictions and conditions, if any, as it may specify in the notification, be exercised also by—

(a) such officer or authority subordinate to the Central Government, or

(b) such State Government or such officer or authority subordinate to a State Government, or

(c) such other officer or authority,

as may be specified in the notification.

11. *Protection against attachment.*—(1) The amount standing to the credit of any depositor shall not be liable to attachment under any decree or order of any court in respect of any debt or liability incurred by the depositor.

(2) Any amount standing to the credit of a depositor at the time of his death and payable to his nominee under a scheme shall vest in the nominee and shall be free from any debt or other liability incurred by the deceased or incurred by the nominee before the death of the depositor.

12. *Penalty for failure to make deposit.*—(1) If any person who is liable to make a deposit under this Act fails to make the same within the time specified therefor, he shall be liable to pay by way of penalty an amount not exceeding half the amount of deposit which he is liable to make:

Provided that before levying any such penalty such person shall be given a reasonable opportunity of being heard in respect of the same.

(2) Where any person is responsible for paying any income falling under the head "Salaries" as mentioned in the Income-tax Act, then, notwithstanding anything in that Act, in computing the total income of that person under that Act for any assessment year commencing on or after the 1st day of April, 1964, no deduction shall be allowed in

respect of payment of any income under that head which in the case of any employee exceeds one thousand five hundred rupees but from which no tax is deductible under the heading "B—Deduction at source" in Chapter XVII of that Act unless a sum equal to the amount which such employee is required to deposit under this Act is deducted from such income at source and is deposited in accordance with the provisions of this Act and the Scheme framed thereunder.

13. *Recovery of arrears of deposit and Penalty.*—Any arrear of deposit and any penalty for failure to make such deposit under this Act shall be recoverable in the same manner as an arrear of land-revenue.

14. *Protection of action taken in good faith.*—No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Act or any scheme framed thereunder.

15. *Power to remove difficulties.*—If any difficulty arises in giving effect to the provisions of this Act or of any scheme framed thereunder, the Central Government may, by order, as occasion requires, do anything (not inconsistent with this Act) which appears to it to be necessary for removing the difficulty.

16. *Scheme to be laid before the Houses of Parliament.*—Any scheme framed under this Act shall be laid, as soon as may be, after it is framed before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if before the expiry of that session in which it is so laid or the session or sessions immediately following both Houses agree in making any modification in any provision of the scheme or both Houses agree that any provision in the scheme should not be made, the provision of the scheme shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that provision.

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